(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

WRIT PETITION NO. 651 OF 2003

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri A. P. Lawande, advocate for the petitioners.

Shri F. E. Noronha, advocate for the respondents.

CORAM : SMT. NISHITA MHATRE, J.

DATE : 29th January, 2004

P.C.:

The prayers in this petition although have been framed widely, the petitioners are now restricting their prayer to the effect that they be permitted to file an application for amendment depending on the decision in the enquiry under Section 21 of the Rent Control Act.

2. An application was filed by the respondents for amending the written statement on 7th July, 1993, claiming the right of permanant tenancy. That application was allowed. An enquiry under Section 21 of the Rent Control Act was

initiated. On 2nd January, 1999, an application for amendment was filed by the petitioners seeking amendment of the application incorporating the ground of eviction on the basis that the claim of permanent tenancy was not made bona fide by the respondents. By an Order of 27th December, 1999, the Additional Rent Controller ordered the eviction of the respondents on the ground that the claim for permanent tenancy was not bona fide. An appeal was preferred by the respondents, which was decided on 25th July, 2003. The Administrative Tribunal allowed the appeal by observing that the amendment application made by the petitioners was premature. The Administrative Tribunal, while allowing the appeal, dismissed the application for amendment. This Order was passed despite the earlier observation made that the amendment sought was premature and that the petitioners ought to have awaited adjudication under Section 21 of the

Rent Control Act.

3. The petitioners are not challenging the orders impugned in the petition, but are restricting themselves to a prayer that in the event the Additional Rent Controller decides the enquiry under Section 21 of the Rent Control Act, they may be permitted to prefer an amendment, if necessary.

4. Despite the strong opposition of the learned counsel for the respondents, I do not see any reason not to grant the request made on behalf of the petitioners.

5. The Writ Petition is dismissed. However, liberty is granted to the petitioners to make an application for amendment, if necessary. If such an application is made the respondents may take up

all contentions as are open to them in law to oppose the same.

SMT. NISHITA MHATRE, J.

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